

Notice of Allowability

Application No.

10/764,795

Examiner

Amy R Cohen

Applicant(s)

ZARS, LEIF ALEXANDER

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to _____.
2. ☒ The allowed claim(s) is/are 1-13 and 19-24.
3. ☒ The drawings filed on 26 January 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 4/12/2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Charles Hanor on November 5, 2004.

The application has been amended as follows:

In the Specification:

Paragraph [0001], line 4 --indicating means-- has been added after "line."

In the Claims:

Claim 1 has been replaced with:

--A method of approximately field marking an arc of a circle having an obstructed center, the method comprising: identifying an eccentric ellipse that will substantially overlap the arc, the ellipse having a first focus and a second focus, both of which are field accessible and unobstructed; securing a first point of a first line indicating means at or near the first focus; securing a second point of the first line indicating means at or near the second focus while pulling the first line indicating means tight between the first and second points; securing a first point of a second line indicating means at or near the first focus; identifying a second point of the second line indicating means, wherein the second point is located a distance from the first point of the second line indicating means equal to the length of the major axis length of the ellipse; securing the second point of the second line indicating means at or near the second focus; pulling

Art Unit: 2859

the second line indicating means tight between the first and second points of the second line indicating means in order to mark out where the ellipse substantially overlaps the arc; and using a marking instrument to mark out a plurality of points of the ellipse wherein the ellipse substantially overlaps the arc.--

Claim 2, line 1 --indicating means-- has been added after "first line".

Claim 3, line 1 "claim 1" has been replaced with --claim 2-- and --indicating means-- has been added after "second line".

Claim 4, line 1 --indicating means-- has been added after "first line".

Claim 5, line 1 "claim 1" has been replaced with --claim 4-- and --indicating means-- has been added after "second line".

Claim 6, line 1 --indicating means-- has been added after "first line".

Claim 7, line 1 "claim 1" has been replaced with --claim 6-- and --indicating means-- has been added after "second line".

Claim 8, line 1 --indicating means-- has been added after "first line".

Claim 9, line 1 --indicating means-- has been added after "second line".

Claim 12 has been replaced with:

--The method of claim 1, wherein the first points of the first and second line indicating means are anchored at or near the focus with a rod.--

Claim 13 has been replaced with:

--The method of claim 1, wherein the arc is delimited by first and second endpoints separated by a chord, the method further comprising calibrating the placement of the first line by: pulling the second line toward the first endpoint of the arc, and the toward the

Art Unit: 2859

second endpoint, but not at the same time; and moving the first line indicating means toward or away from the chord connecting the first and second endpoints of the arc, while keeping the first line indicating means tightly drawn, centered and parallel to the chord, until the first line indicating means is in position wherein the step of pulling the second line indicating means toward either the first or second endpoint will pull the second line indicating means tight.--

Claims 14-18 have been canceled.

Claim 19, line 5 --and unobstructed-- has been added after "field accessible".

Claim 21 has been replaced with:

--The method of claim 19, wherein a device is used to clamp to clamp the standard tape measure and the color-coded tape measure together at the second field location, the device comprising: a first clamp having a first slot to engage the standard tape measure; and a second clamp having a second slot to engage the color-coded tape measure; wherein the second clamp is connected to the first clamp.--

Allowable Subject Matter

2. The following is an examiner's statement of reasons for allowance:

The prior art of record does not disclose or suggest a method of approximately field marking an arc of a circle having an obstructed center, the method comprising: identifying an eccentric ellipse that will substantially overlap the arc, the ellipse having a first focus and a second focus, both of which are field accessible and unobstructed in combination with the remaining limitations of the claims.

Art Unit: 2859

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents disclose ellipse drawing devices Lim (U. S. Patent No. 6,308,426), Morita et al. (U. S. Patent No. 5,189,800), Langston (U. S. Patent No. 5,123,171), Clegg (U. S. Patent No. 4,570,344), Vitale (U. S. Patent No. 4,566,198), Place (U. S. Patent No. 4,381,607), Blake (U. S. Patent No. 3,462,843), Barker (U. S. Patent No. 3,269,015), Gutting (U. S. Patent No. 3,066,416), Abbott (U. S. Patent No. 3,039,197), Barker (U. S. Patent No. 2,832,251), and Caldwell (U. S. Patent No. 1,230,994).

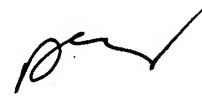
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2859

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARC
November 5, 2004



Diego Gutierrez
Supervisory Examiner
Tech Center 2800